

1 **DYKEMA GOSSETT LLP**
2 J. Alexandra Rhim, SBN: 180636
3 arhim@dykema.com
333 South Grand Avenue, Suite 2100
3 Los Angeles, California 90071
4 Telephone: (213) 457-1800
4 Facsimile: (213) 457-1850

5 Attorneys for Defendants Deutsche Bank National Trust Company, as Trustee of the INDYMAC INDEX
6 Mortgage Loan Trust 2005-AR12, Mortgage Pass-Through Certificates, Series 2005-AR12, Under
the Pooling and Servicing Agreement Dated as of June 1, 2005 and OneWest Bank, FSB

FILED & ENTERED

JAN 30 2014

CLERK US BANKRUPTCY COURT
Central District of California
BY reid DEPUTY CLERK

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8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION**

10 In re

Case No. 8:11-bk-19563-ES

11 TRUDY KALUSH,
12 Debtor.

Chapter 11

13 TRUDY KALUSH,
14 Plaintiff,
15 vs.

Adv. No.: 08:12-ap-01206-ES

16 DEUTSCHE BANK NATIONAL TRUST
17 COMPANY AS TRUSTEE OF THE
18 INDYMAC INDEX DEED OF TRUST LOAN
19 TRUST 2005-AR12, DEED OF TRUST PASS-
THROUGH CERTIFICATES, SERIES 2005-
20 AR12, UNDER THE POOLING AND
SERVICING AGREEMENT DATED JUNE 1,
2005; ONEWEST BANK, FSB; and DOES 1-
100, Inclusive,

**ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT
OR, IN THE ALTERNATIVE, MOTION
FOR PARTIAL SUMMARY
ADJUDICATION**

21 Defendants.

Hearing Date: November 27, 2013
Time: 11:30 a.m.
Place: Courtroom 5A
411 W. Fourth Street
Santa Ana, CA

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1 On November 5, 2013, the Court held a hearing to consider the defendants' motion for
2 summary judgment (the "Motion"). The Court took the matter under submission and held a further
3 hearing on November 27, 2013, at which time the Court announced its ruling as well as its findings.
4 Upon consideration of (1) the Motion and other supporting papers; (2) the plaintiff's opposition and
5 supporting papers; and (3) arguments presented at the hearings; and upon all the proceedings had
6 before the Court and after due deliberation and sufficient cause appearing therefore, and for the
7 reasons stated on the record at the hearings before the Court,

8 **IT IS HEREBY ORDERED:**

9 1. The Motion is granted in part as follows:

10 a. The Second Claim for Relief asserted in the complaint [docket no. 1] (the
11 "Complaint") is dismissed in its entirety;

12 b. The Fourth Claim for Relief asserted in the Complaint is dismissed in its
13 entirety; and

14 c. The Seventh Claim for Relief asserted in the Complaint is dismissed in its
15 entirety.

16 2. All other relief sought in the Motion is denied.

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18 IT IS SO ORDERED.

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22 Date: January 30, 2014

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25 Erithe Smith
26 United States Bankruptcy Judge

NOTICE OF ENTERED ORDER AND SERVICE LIST

Notice is given by the court that a judgment or order entitled (*specify*): **ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, MOTION FOR PARTIAL SUMMARY ADJUDICATION**

was entered on the date indicated as "Entered" on the first page of this judgment or order and will be served in the manner stated below:

1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF) - Pursuant to controlling General Orders and LBRs, the foregoing document was served on the following persons by the court via NEF and hyperlink to the judgment or order. As of (date) 12/19/2013, the following persons are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF transmission at the email addresses stated below.

Allan P Bareng on behalf of Creditor JPMORGAN CHASE BANK, N.A.
barenga@bryancave.com, theresa.macaulay@bryancave.com

Robert P Goe on behalf of Plaintiff Trudy Kalush
kmurphy@goeforlaw.com, rgoe@goeforlaw.com;mforsythe@goeforlaw.com

J Alexandra Rhim on behalf of Defendant Deutsche Bank National Trust Company as Trustee of the INDYMAC INDEX Deed of Trust Loan Trust 2005-AR12, Deed of Trust Pass-Through Certificates, Series 2005-AR12, under the Pooling and Servicing - arhim@dykema.com, cperez@dykema.com

Robert Reganyan – reganyanlawfirm@gmail.com

United States Trustee (SA) - ustpregion16.sa.ecf@usdoj.gov

Sharon Z. Weiss on behalf of Creditor JPMORGAN CHASE BANK, N.A.
sharon.weiss@bryancave.com, raul.morales@bryancave.com

Service information continued on attached page

2. SERVED BY THE COURT VIA UNITED STATES MAIL: A copy of this notice and a true copy of this judgment or order was sent by United States mail, first class, postage prepaid, to the following persons and/or entities at the addresses indicated below:

Service information continued on attached page

3. TO BE SERVED BY THE LODGING PARTY: Within 72 hours after receipt of a copy of this judgment or order which bears an "Entered" stamp, the party lodging the judgment or order will serve a complete copy bearing an "Entered" stamp by United States mail, overnight mail, facsimile transmission or email and file a proof of service of the entered order on the following persons and/or entities at the addresses, facsimile transmission numbers, and/or email addresses stated below:

Service information continued on attached page